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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,598	08/13/2001	James R. Gloudemans II	SPTV-01076US0	9183
28554	7590	10/06/2005		
VIERRA MAGEN MARCUS HARMON & DENIRO LLP 685 MARKET STREET, SUITE 540 SAN FRANCISCO, CA 94105				
			EXAMINER DO, ANH HONG	
			ART UNIT 2627	PAPER NUMBER

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,598

Applicant(s)

GLOUDEMANS ET AL.

Examiner

ANH H. DO

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-30, 42-46 and 53-56 is/are allowed.
- 6) ☒ Claim(s) 1, 14, 31, 37-39, 41, 47-49, 51, 52, and 57-60 is/are rejected.
- 7) ☒ Claim(s) 2-13, 15-19, 32-36, 40 and 50 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓ ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ✓ ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/2001.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 37-39, 41, 47-49, 51, 52, and 57-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 recites an apparatus in the pre-amble but several steps of a method appear in the claim body. Thus, it is not clear whether the claim is an apparatus claim or a method claim.

Similarly, claims 38, 39, 41, 47, 48, 49, 51, 52, 57, 58, 59 and 60 are rejected for the same reason.

3. Claim 41 recites the limitation "one or more processor readable storage devices" in line 1, referring to claim 37. However, claim 37 recites "one or more storage devices" only. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 37-41, 47-52, and 57-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claims 37, 47, and 57 are drawn to functional descriptive material not claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

“Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.”

“Such claimed data structures do not define any structural or functional interrelationship between the data structure and other claimed aspects of the invention which permits the data structure’s functionality to be realized.”

Claims 37, 47, and 57, while defining a medium, do not define a “computer-readable medium” and are thus non-statutory for that reason. A medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending to embody the program on “computer readable medium” in order to make the claims statutory.

Claims 38-41, 48-52, and 58-60 depend upon claims 37, 47 and 57, therefore they are also rejected for the same reason.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 14, and 31 are rejected under 35 U.S.C. 102(a) as being anticipated by Bolle et al. (U.S. Patent No. 5,546,475).

Regarding claims 1 and 14, Bolle discloses:

- receiving a set of two or more images of a scene (Fig. 1: frame grabber 142 for receiving a set of images from camera 120);
- identifying foreground for at least a subset of said images of said scene (col. 11, lines 11-13);
- creating a video of said scene conveying an illusion of a camera moving around said scene, said step of creating a video is based on said set of two or more images and said step of identifying foreground (Fig. 1: system 100 creating a video of said scene conveying an illusion of a camera 120 moving around said scene, said step of creating a video is based on said set of two or more images generated from objects 131 and said step of identifying foreground by the system 100).

Regarding claim 31, Bolle discloses a computer 140 (Fig. 1) for storing readable code to perform the steps as discussed in claim 1 above.

Allowable Subject Matter

8. Claims 2-13, 15-19, 32-36, 40, and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 20-30, 42-46, and 53-56 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 20, the prior art, taken either singly or in combination does not teach:

- creating one or more... different angles.

Regarding claims 21-26, since these depend upon claim 20, they are also allowable for the same reason.

Regarding independent claims 27 and 53 and dependent claims 2 and 32, the prior art, taken either singly or in combination does not teach:

- subtracting said second image for said first image to create a first difference; subtracting said third image from said first image to create a second difference; creating a union of said first difference and said second difference, said union identifies said foreground.

Regarding claims 28-30, since these depend upon claim 28, they are also allowable for the same reason.

Regarding claims 54-56, since these depend upon claim 53, they are also allowable for the same reason.

Regarding claims 3-5, since these claims depend upon claim 2, they are also objected for the same reason.

Regarding claim 6, the prior art, taken either singly or in combination does not teach:

- said first set of one or more video images appears... and said second angle; said second set of one or more... and said third angle.

Regarding claims 7-13, since these claims depend upon claim 6, they are also objected for the same reason.

Regarding claims 15 and 36, the prior art, taken either singly or in combination does not teach:

- warping a first image... from a second camera; warping a third image... from said second camera; removing... said third image; filling... said third image; creating new images.. with said third image.

Regarding claims 17 and 34, the prior art, taken either singly or in combination does not teach:

- creating one or more... one or more video images; and blurring... more new images.

Regarding claims 19, 26, and 35, the prior art, taken either singly or in combination does not teach:

- creating matches ... and said third video image; discarding bad chains; creating morphs.. on said chains.

Regarding claim 50, the prior art, taken either singly or in combination does not teach:

- one or more time code inserter... and said second image.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H. DO whose telephone number is 571-272-7433. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID K. MOORE can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 3, 2005.



ANH HONG DO
PRIMARY EXAMINER